

FILED
UNITED STATES DISTRICT COURT
IN CLERK'S OFFICE
DISTRICT OF MASSACHUSETTS

2005 JAN 19 P 3:00

DIRECT TV, INC.,
A California Corporation,
Plaintiff

v

JOE SKARBEK,
Defendant

Case No. 04-30218KPN
U.S. DISTRICT COURT
DISTRICT OF MASS

DEFENDANT JOE SKARBEK'S ANSWER TO COMPLAINT

The Defendant, Joe Skarbek, through his attorney, answers as follows:

1. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 1 of the plaintiff's Complaint.
2. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 2 of the plaintiff's Complaint.
3. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 3 of the plaintiff's Complaint.
4. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 4 of the plaintiff's Complaint.
5. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 5 of the plaintiff's Complaint.
6. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 6 of the plaintiff's Complaint.
7. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 7 of the plaintiff's Complaint.
8. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 8 of the plaintiff's Complaint.
9. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 9 of the plaintiff's Complaint.

10. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 10 of the plaintiff's Complaint.
11. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 11 of the plaintiff's Complaint.
12. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 12 of the plaintiff's Complaint.
13. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 13 of the plaintiff's Complaint.
14. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 14 of the plaintiff's Complaint.
15. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 15 of the plaintiff's Complaint.
16. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 16 of the plaintiff's Complaint.
17. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 17 of the plaintiff's Complaint.
18. The Defendant, Joe Skarbeck admits the averment contained in paragraph 18 of the plaintiff's Complaint so much as it alleges that the Defendant is a resident of this District. However, the Defendant denies each and every further averment contained in paragraph 18 of the plaintiff's Complaint.
19. The Defendant, Joe Skarbeck admits the averment contained in paragraph 19 of the plaintiff's Complaint so much as it alleges that the Defendant is a resident of Chicopee, MA. However, the Defendant denies each and every further averment contained in paragraph 19 of the plaintiff's Complaint.
- 19a. The Defendant, Joe Skarbek denies the averments contained in paragraph 19a of the plaintiff's Complaint so much as it alleges that the Defendant purchased one (1) Unlooper from Heard. The Defendant, Joe Skarbeck is without knowledge as to each and every further averment contained in paragraph 19a of the plaintiff's Complaint.
20. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 20 of the plaintiff's complaint.
21. The Defendant, Joe Skarbeck admits the averment contained in paragraph 21 of the plaintiff's Complaint so much as it alleges that the Defendant possessed at some time hardware capable of receiving some of plaintiff's encrypted satellite

transmissions. However, the Defendant denies that any transmissions were ever received without authorization or payment to the plaintiff as contained in paragraph 21 of the plaintiff's Complaint.

22. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 22 of the plaintiff's complaint.
23. The Defendant, Joe Skarbek states that the averments contained in paragraph 23 of the plaintiff's Complaint are allegations of law and require no response.
24. The Defendant, Joe Skarbek states that the averments contained in paragraph 24 of the plaintiff's Complaint are allegations of law and require no response.
25. The Defendant, Joe Skarbek admits the averment contained in paragraph 25 of the plaintiff's Complaint so much as it alleges that the Defendant is a resident of this District. However, the Defendant denies each and every further averment contained in paragraph 25 of the plaintiff's Complaint.

COUNT I
Unauthorized Reception of Satellite Signals
In violation of 47 U.S.C. § 605(a)

26. The Defendant, Joe Skarbek repeats and realleges the responses in paragraphs 1 through 25 as if set forth fully herein.
27. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 27 of the plaintiff's complaint.
28. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 28 of the plaintiff's complaint.
29. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 29 of the plaintiff's complaint.

COUNT II
Unauthorized Interception of Electronic Communications
In violation of 18 U.S.C. § 2511(1)

30. The Defendant, Joe Skarbek repeats and realleges the responses in paragraphs 1 through 30 as if set forth fully herein.
31. The Defendant, Joe Skarbek states that the averments contained in paragraph 31 of the plaintiff's Complaint are allegations of law and require no response.
32. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 32 of the plaintiff's complaint.

33. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 33 of the plaintiff's complaint.
34. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 34 of the plaintiff's complaint.

COUNT III
Assembly, Manufacture and/or Modification of Devices or Equipment
In violation of Title 47 U.S.C. § 605

35. The Defendant, Joe Skarbek repeats and realleges the responses in paragraphs 1 through 35 as if set forth fully herein.
36. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 36 of the plaintiff's complaint.
37. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 37 of the plaintiff's complaint.
38. The Defendant, Joe Skarbek is without knowledge as to the averments contained in paragraph 38 of the plaintiff's Complaint.
39. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 39 of the plaintiff's complaint.
40. The Defendant, Joe Skarbek denies each and every of the averments contained in paragraph 40 of the plaintiff's complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The plaintiff's complaint fails to state a claim against the defendants upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The plaintiff's complaint is the proximate result solely of the conduct of a third person or persons all of whose conduct the defendant is not legally responsible, and the plaintiff may therefore not recover against the defendant as alleged.

THIRD AFFIRMATIVE DEFENSE

The claims asserted by the plaintiff are barred by the Statute of Limitations.

FOURTH AFFIRMATIVE DEFENSE

The plaintiff has failed to mitigate its damages.

**THE DEFENDANT DEMANDS A TRIAL BY JURY
ON ALL ISSUES RAISED HEREIN.**

Dated:

The Defendant, Joe Skarbek
By His Attorney

CERTIFICATE OF SERVICE
I hereby certify that a true copy
of the above document was served
upon the Attorney of record for
each party by mail/hand on 1/18/05

G. F. Kelly

George F. Kelly
George F. Kelly, Esquire
930 Main Street
Springfield, MA 01103
BBO# 266500
(413) 730-9222 telephone
(413) 787-0750 facsimile